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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,038	06/30/2000	Tetsuro Yoshioka		1110

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EXAMINER

RHODE JR, ROBERT E

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/608,038	YOSHIOKA, TETSURO
	<b>Examiner</b>	<b>Art Unit</b>
	Rob Rhode	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 

(W) Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)
 

Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant amendment of 8-01-05 amended claims 1, 10, 15 and 17 as well as traversed rejections of Claims 1 - 19.

Currently, claims 1- 19 are pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 10, 11, 12, 15 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1 for example, the phrase "home page " is a relative phrase, which renders the claims indefinite. The word " home page " is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For examination purposes the phrase "home page" will be treated as the main page of a web site, which typically serves as an index or table of contents to other documents stored at the site and thereby is the first document the visitor/member views.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is directed to both an apparatus and the method steps of using the apparatus. MPEP 2173.05(p).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1 – 3, 5 – 10, 12 – 13 and 15 - 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittsche (US 6,556,975 B1) in view of Cronin (US 2001/00321145 A1).**

Regarding claim 1 and related claims 10 and 15, Wittsche teaches a franchise/community system for organizing and establishing a headquarter for business transactions over a network, comprising; at least one headquarter network server; a plurality of franchise/community store servers, each corresponding to a different franchise/community store and connected with the at least one headquarter network server by a network; and a plurality of member servers, each corresponding to a different member to terminal and connected with the at least one headquarter

network server by the network; wherein the at least one headquarter network server includes, a merchandise information memory data that include® information for goods sold by the franchise/community stores, a home page creation system that accesses the merchandise information memory data for merchandise information to create a home page of each franchise/community store, and that a home page data memory system to collect additional home page data for the home page of each franchise/community store, the home page creation system also accessing a franchise/community store identification (m) system, a home page sending service that sends home page data from the home page of each franchise/community store to at least one member/customer service, including information fom. the merchandise information memory data and, an order receiving system that processes orders from the plurality of member terminals through the home pages of each franchise/community store, a received data transfer system that transfers order data received by the order receiving system swan the at least one headquarter network serves to one of the franchise/community servers according to the franchise store ID system, the order data including a buyer name and goods ordered (see at least Abstract, Col 3, lines 54 – 67, Col 4, lines 1 – 3, Col 6, lines 65 – 67, Col 8, lines 1 – 5 and 21 – 41, Col 10, lines 18 – 20 and Figures 1 – 3). Please note that Wittsche discloses “communities” with associated stores but does not specifically disclose “franchise”. In that regard and since the word “franchise” is not considered to be a limitation, which imparts any functional limitation to the claim and thereby is considered to be non-functional descriptive material (MPEP 2106 b). Therefore, “franchise” is not considered to provide patentable distinction. In this respect, the Examiner contends that the system would work equally as well with “communities” as disclosed by Wittsche. Moreover, the claims recites “a home page/community creation system that “accesses” the

merchandise information" and Wittsche discloses this functional capability of" accessing" a "merchant site" by a customer/shopper and which the system of Wittsche accesses the "web site pages of the merchant, which contain a first page/home page and is the main page". For example and as disclosed by Wittsche, the customer accesses a store via the directory of Stores and the system of Wittsche then accesses the home page/first page of the merchant's store, which is displayed on the customers server (Col 5, lines 30 – 34 and lines 52 – 56, Col 7, lines 10 – 13, Col 9, lines48 – 49, Col 11, lines 2- 6 and Figures 2 and 3). In turn, the order/purchase receiving system and process these orders of items selected in the merchant's store (Abstract, Col 5, lines 12 – 34 and Figure 5).

Although Wittsche does disclose matching the customer/person orders to appropriate online stores, the reference does not specifically disclose and a teach a franchise store system for predetermined members and matching a franchise store to a person ordering via a member terminal when the person accesses the franchise system, the franchise store (ID) system matching franchise stores to the person accessing the franchise system based on the uniform resource locator values set up in advance according to predetermined rules.

On the other hand and in the same area of online commerce, Cronin teaches a franchise system franchise store I) system matches a franchise store to a person ordering via a member terminal when the person accesses the franchise system, the franchise store II) system matching franchise stores to the person accessing the franchise system based on uniform resource locator values set up in advance according to predetermined rules (see at least Abstract and Para 0039).

Please note in claim 10 and related claim 19 that the phrase "sold by the plurality of franchise stores, such goods including goods available at a particular franchise store and not available at the particular franchise store but available at a headquarter" are considered to be non functional descriptive material, since the information data is not processed in any way – just stored and transmitted. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Wittsche. Thereby, the non-fictional descriptive material is directed only to the content of the data and does not affect either the structure or method/process of Wittsche, which leaves the method and system unchanged (see MPEP 2106). Moreover and with regard to the terminal ID, theses ID are known as "cookies" were old and well known at the time of the Applicant's invention and thereby the Examiner takes Official Notice. Terminal ID's (i.e. cookies) were both old and well known and frequently used in on line systems to match the individuals terminal to a data base of registered members and these cookies were used in online systems to allow entry as well track the member selections.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the system of Wittsche with the system of Cronin to have enabled a system franchise system for organizing and establishing a headquarter for business transactions over a network,

comprising; at least one headquarter network server; a plurality of franchise store servers, each corresponding to a different franchise store and connected with the at least one headquarter network server by a network; and a plurality of member servers, each corresponding to a different member to terminal and connected with the at least one headquarter network server by the network; wherein the at least one headquarter network server includes, a merchandise information memory data that include information for goods sold by the franchise stores, a home page creation system that accesses the merchandise information memory data for merchandise information to create a home page of each franchise store, and that a home page data memory system to collect additional home page data for the home page of each franchise store, the home page creation system also accessing a franchise store identification (m) system, a home page sending service that sends home page data for the home page of each franchise stone to at least one predetermined member service, including information from the merchandise information memory data, an order receiving system that processes orders from the plurality of member terminals through the home pages of each franchise store, a received data transfer system that transfers order data received By the order receiving system swan the at least one headquarter network server to one of the franchise servers according to the franchise store system, the order data including a buyer name and goods ordered (See at least Abstract and Figures 1 – 3). Cronin discloses a system a franchise system franchise store In system matches a franchise store to a person ordering via a member terminal when the person accesses the franchise system, the franchise stare II) system matching franchise stores to the person accessing the franchise system based on uniform resource locator values set up in advance according to predetermined rules (see at least Col 5, lines 28 - 39). Therefore, one of ordinary skill in the art would have been

motivated to extend the system of Wittsche with a system for a franchise system franchise store In system matches a franchise store to a person ordering via a member terminal when the person accesses the franchise system, the franchise store II) system matching franchise stores to the person accessing the franchise system based on uniform resource locator values set up in advance according to predetermined rules. In this manner, the member will be accessing the appropriate site with which they are affiliated and the purchases will be credited to the appropriate distributor/store

Regarding claim 2, the phrase that “wherein: the merchandise information memory data further includes information - for goods not available at one of the franchise stores, but available at the headquarter” is considered to be non-functional descriptive material. The phrase in this claim is considered to be non-functional descriptive material. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant’s invention from Wittsche. Thereby, the non-fictional descriptive material is directed only to the content of the data (i.e. memory data further includes....information) and does not affect either the structure or method/process of Wittsche, which leaves the method and system unchanged (see MPEP 2106). While the applicant argues that storing of the specific information is a patentable distinction, it is not. This is an apparatus/system claim and the type or kind of information/data “stored” as well as “transmitted” does not provide

patentable distinction as long as the reference discloses or would suggest to one of ordinary skill in the art the necessary structure such as memory (see Wittsche Figure 1).

Regarding claim 3, Wittsche teaches a franchise system, wherein the network includes the Internet (Figure 1).

Regarding claim 5 and related claims 12, 13, 18 and 19, Cronin teaches a franchise system, wherein the uniform resource locator value includes first portion unique to each store and second portion common to all franchise stores and the headquarters (Para 0004 and Para 0014). Moreover and please note a URL specifies the protocol to be used in accessing the resources, the name of the server on which the resource resides (such as //www.whitehouse.gov), and, *optionally, the path to a resource (such as an HTML document or a file on that server)*. A URL may uniquely identify a specific file or image on a particular logical or physical server. By definition, a URL/Uniform Resource Locator already includes what applicant refers to as a “*unique compound address*” and a “*subaddress*”, i.e., identifier(s) after a domain name that uniquely identify the path to a resource such as a file or document. For example in this case, the subaddress could have been the global address for the headquarter server.

Regarding claim 6, Cronin teaches an online commerce/franchise system, wherein: the at least one headquarter network server further includes a member entry data base that identifies

previously accessing members and matches said members to a predetermined franchise store according to said member entry data (Para 0016 and 0030).

Regarding claims 7, 8 and 9, the recitations that “ wherein: the member entry data base includes member entries comprising a member identification (ID) value, a password, a franchise store code, and a terminal identification (ID) code”, “ wherein: at least a portion of the member ID value includes at least a portion of the store code” and “wherein: at least a portion of the password includes at least a portion of the store” such recitations are given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other “identifies” already disclosed by Cronin. Cronin discloses the structure of a database (Para 0017), which is well known to one of ordinary skill being capable of storing information/data. Moreover, the phrases words in these claims are considered to be non-functional descriptive material, which is stored information/data and is not processed in any fashion. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Cronin. Thereby, the non-fictional descriptive material is directed only to the content of the data and does not affect either the structure or method/process of Cronin, which leaves the method and system unchanged (MPEP 2106).

Regarding claim 16, Cronin teaches an electronic franchise shopping system, wherein: said member data further includes a terminal (ID) value associated with a remote user terminal () and regarding claim 17, wherein: the franchise store identification ID system checks for a terminal ID value for an accessing user, and determines that access is not cite where the franchise store ID system match the ID with that of member data (Para 0030).

**Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Wittsche and Cronin as applied to claims 1 and 10 above, and further in view of Anuff (US 6,327,628 B1).**

The combination of Wittsche and Cronin disclose and teach substantially the applicant's invention.

However, the combination does not specifically disclose and teach the claim recitations for a sending a guest page.

On the other hand and regarding claim 4 and related claim 11, Anuff teaches a franchise system wherein, the home page service sends a predetermined guest page data when a member server accessing the Franchise system does not match any franchise store (see at least Col 13, lines 39 – 44).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have provided the combination of Wittsche and Cronin with the system of Anuff which sends a predetermined guest page data when a member server accessing the Franchise system does not match any franchise store. The combination of Wittsche and Cronin disclose and teach the claim limitations recited in claim 1 and 10. In turn, Anuff discloses a system for wherein, the home page service sends a predetermined guest page data when a member server accessing the Franchise system does not match any franchise store (see at least Col 13, lines 39 – 44). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Wittsche and Cronin with a system wherein, the home page service sends a predetermined guest page data when a member server accessing the Franchise system does not match any franchise store.

**Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of as applied to claim 10 above, and further in view of Spagna (US 6,587,837 B1).**

The combination of Wittsche and Cronin substantially teach the applicant's invention.

However, the combination does not specifically disclose and teach an electronic franchise shopping system, wherein: the at least one headquarter network server further includes a clearance system that executes copyright clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store.

On the other hand and regarding claim 14 (New), Spagna teaches an electronic franchise shopping system, wherein: the at least one headquarter network server further includes a clearance system that executes copyright clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store (Col 4, lines 26 – 29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Wittsche and Cronin with the system of Spagna for a electronic franchise shopping system in order that the at least one headquarter network server further includes a clearance system that executes copyright clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store. The combination of Wittsche and Cronin disclose a franchise system that included, servers for member/customers, franchise stores/affiliates and headquarter/central server, which includes merchandise, home page creation/sending system as well as order receiving and processing, plus a franchise store ID system. Spagna discloses a an electronic franchise shopping system, wherein: the at least one headquarter network server further includes a clearance system that executes copyright clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store (Col 4, lines 26 – 29). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Wittsche and Cronin with a system for an electronic franchise shopping system, wherein: the at least one headquarter network server further includes a clearance system that executes copyright

clearance procedures on behalf of a franchise store for good ordered through the web page of the franchise store.

***Response to Arguments***

Applicant's arguments, filed 1/28/2005, with respect to the rejection(s) of claim(s) 1 – 19 under 35 USC 103(a) have been fully considered and are persuasive with respect to Dodd. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Cronin (US 2001/0032145 A1).

Applicant arguments regarding Wittsche are addressed above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

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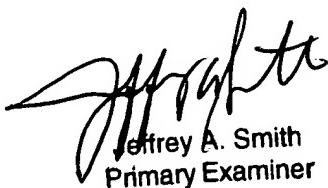
After Final communications labeled  
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**571.273.8300** [Informal/Draft communications, labeled  
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Jeffrey A. Smith  
Primary Examiner